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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

EDDIE F. MARSHALL

CASE NO. C-1-02-189

SANDRA D. MARSHALL

Judge Herman Weber

VENA MARSHALL

Magistrate Judge Hogan

Plaintiffs

vs.

OHIO DEPARTMENT OF EDUCATION

NEW BOSTON PUBLIC SCHOOLS

**DEFENDANTS' MOTION TO  
DISMISS PLAINTIFFS EDDIE F.  
MARSHALL AND SANDRA D.  
MARSHALL**

LOWELL HOWARD

BERNARD TILLEY

MELINDA BURNSIDE

JERRY BENTLEY

LAURA WESSEL

PAT POTTER

Defendants

Now come defendant New Boston Public Schools, Lowell Howard, Bernard Tilley, Melinda Burnside, Jerry Bentley, Laura Wessel and Pat Potter, and move to dismiss plaintiffs

Eddie F. Marshall and Sandra D. Marshall. This motion is supported by the attached memorandum.

Respectfully submitted,

/s/ R. Gary Winters  
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OHIO DEPARTMENT OF EDUCATION

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LOWELL HOWARD

**MEMORANDUM IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS PLAINTIFFS EDDIE F.  
MARSHALL AND SANDRA D.  
MARSHALL**

BERNARD TILLEY

MELINDA BURNSIDE

JERRY BENTLEY

LAURA WESSEL

PAT POTTER

Defendants

Plaintiff Eddie F. Marshall and plaintiff Sandra D. Marshall have been made plaintiffs in this litigation in the Complaint and Amended Complaint solely as father and mother, respectively, of plaintiffs Vena Marshall and Kathryn Marshall. There is no allegation in either the Complaint or the Amended Complaint that Eddie F. Marshall or Sandra D. Marshall have any claims separate from or not arising out of their status as parents. Accordingly, they

are proper party plaintiffs only while the allegedly injured plaintiffs are minors. At the time of the filing of the Amended Complaint on December 11, 2002, Kathryn Marshall was seventeen years old. She is clearly now over the age of eighteen and it is no longer necessary for her parents to serve as plaintiffs on her behalf.

With respect to plaintiff Vena Marshall, it is understood that her date of birth was August 3, 1987. Accordingly, she turned eighteen years of age on August 3, 2005. Therefore, she is now an adult in the eyes of the law and there is no need for her parents to serve as party plaintiffs in this matter any longer on her behalf.

In summary, both of the plaintiffs who allegedly been injured by the defendants are adults and there is no need for Eddie F. Marshall and Sandra D. Marshall to serve as party plaintiffs in this matter any further. Therefore, defendants request that plaintiffs Eddie F. Marshall and Sandra D. Marshall be dismissed from this lawsuit.

Respectfully submitted,

/s/ R. Gary Winters  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the    day of August, 2005 , a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ R. Gary Winters

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